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OPEN MEETING AGENDA ITEM

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BEFORE THE ARIZONA CORPORATION COMMISSION

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2002 JUN 14 A 10:03

AZ CORP COMMISSION
DOCUMENT CONTROLIN THE MATTER OF THE JOINT APPLICATION
OF SUN CITY WATER COMPANY AND SUN
CITY WEST UTILITIES COMPANY FOR APPROVAL
OF CENTRAL ARIZONA PROJECT WATER UTIL-
IZATION PLAN AND FOR AN ACCOUNTING ORDER
AUTHORIZING A GROUNDWATER SAVINGS FEE
AND RECOVERY OF DEFERRED CENTRAL ARIZONA
PROJECT EXPENSES.) DOCKET NO.
) W-01656A-98-0577
) SW-02334A-98-0577AUIA'S RESPONSE TO EXCEPTIONS
FILED BY SCTA AND RUCO

1 The Arizona Utility Investors Association (AUIA) hereby
2 files its response to the exceptions filed by the Sun City Taxpayers
3 Association (SCTA) and the Residential Utility Consumers Office
4 (RUCO) to the Recommended Opinion and Order issued in this
5 docket on May 15, 2002.

Introduction

6 AUIA supports the Recommended Order of the
7 Administrative Law Judge (ALJ) in this matter. It is one of the
8 most thorough and well reasoned orders we have seen, especially
9 given the number and complexity of the issues raised by SCTA in
10 serial hearings and years of litigation.

11 During these proceedings, the Applicant (collectively,
12 Citizens) responded effectively to a multitude of issues and
13 accusations about the proposed Groundwater Savings Plan (GSP),
14 which was developed by a task force of west side organizations.
15 In his Recommended Order, the ALJ considered carefully every
16 relevant issue that was raised at hearing and decided each in favor
17 of the GSP.
18

Arizona Corporation Commission

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1 The exceptions filed by SCTA and RUCO basically reflect their litigated
2 Positions and expose no flaws or oversights in the ALJ's Recommended Order.

3 **SCTA's Exceptions**

4 1. Changed Circumstances.

5 SCTA asserts that data from the recently commenced operation of CAWCD's
6 Agua Fria Recharge Facility justifies rejecting the GSP. This data may or may
7 not demonstrate anything, but it is not in evidence and cannot be verified. The
8 ALJ does not deal specifically with recharge in his Recommended Order
9 because it was not relevant to consideration of the GSP. In fact, CAP recharge
10 has been off the table in this proceeding since the Commission rejected it, at
11 the urging of SCTA, in Citizens' 1995 rate case (Decision No. 60172, May 7,
12 1997).

13 2. Invalid Water Exchange Agreements.

14 A. Agreements have not been filed with ADWR. This assertion is simply
15 irrelevant. The Applicant has been in continuous contact with ADWR and
16 will file the agreements after the GSP is approved by the Commission. There
17 is no reason to do it sooner.

18 B. Improper lease of Sunland Memorial's water right. This assertion was
19 dealt with at hearing and is covered in the ALJ's Recommended Order (Order,
20 P. 16). The contract, which supports the lease and is cited by the ALJ, was
21 executed in 1975. The affidavit attached to SCTA's exceptions as Exhibit B is
22 not in evidence and refers to a 1982 agreement that doesn't deal with rights.

23 C. Expiration of industrial use permits. This issue was thoroughly aired at
24 hearing and is discussed at length in the Recommended Order (Order, P. 16-
25 17).

26 D. SCTA's continuing "judicial challenge" of the Rec. Centers' Agreements.
27 At trial, the Taxpayers lost this case on every point. They are even subject to
28 an order to pay the defendants' attorney fees. They may appeal until the cows
29 come home, but that has no bearing on Commission's decision in this case.

30 3. Alleged Deficiencies in the Preliminary Engineering Report

31 This allegation, in its many guises, is designed ultimately to remove Sun City
32 from responsibility for the GSP and to shift the burden to Sun City West. The

1 need for all elements of the GSP was explored exhaustively at hearing and is
2 dealt with at great length by the ALJ (Order, P. 11-15).

3 4. Rate Shock

4 This issue also was debated at length at hearing. It was and is RUCO's
5 principal basis for opposing the GSP. In his Recommend Order (P. 21-22), the
6 ALJ points to Staff testimony that there is no assurance that all of the costs of
7 the GSP will be recovered in rates, but even if they were, the dollar impacts on
8 Sun City and Sun City West customers would not be great. There is no need
9 for the additional ordering paragraph proposed by SCTA because it is clear
10 that the Commission always retains full ratemaking authority.

11 5. The Project Should Be Phased.

12 This is another bite at the cost-shifting apple. Although the Recommended
13 Order does not deal directly with this issue, it was raised in SCTA's pleadings
14 and in some parties' closing briefs. The purpose of this proposal is, once
15 again, to exempt Sun City from responsibility for the GSP and leave the
16 burden with Sun City West. It would require Sun City to relinquish its share
17 of the Central Arizona Project allocation.

18 **RUCO's Exceptions**

19 1. High Cost of Alternative A.

20 This is simply a reiteration of RUCO's rate shock argument, which has also
21 been adopted by SCTA. As we noted above, the Recommended Order deals at
22 length with this issue (Order, P. 21-22).

23 2. New Arsenic Standard

24 This issue emerged late in the proceeding, in RUCO's post-hearing brief, and
25 there is no evidence in the record supporting RUCO's theory that blending
26 CAP water would be the least-cost method for meeting the federal drinking
27 water standard. As the ALJ observes (Order, P. 22), there is reason to believe
28 that very substantial costs would be involved in converting CAP water to a
29 potable product. In the context of this proceeding, RUCO's argument is
30 untested and speculative.

31 **Conclusion**

32 The disposition of Citizens' CAP allotments for the Sun Cities has been at
33 issue before this Commission since at least 1995. As SCTA acknowledges, the

1 CAP Task Force was convened five years ago to craft a solution. In the
2 meantime, SCTA has been granted every possible opportunity to argue its case,
3 yet SCTA advocates further delays. SCTA pleads that circumstances have
4 changed and there is no doubt that continue delays in reaching a decision, will
5 produce more changes. If we wait long enough, the Colorado River may dry up.

6 The ALJ's comprehensive, well reasoned Recommended Opinion and
7 Order offers the means to bring this long-running drama to a constructive end.
8 AUIA respectfully urges the ALJ and the Commission to reject the exceptions
9 filed by SCTA and RUCO and adopt the Order authorizing Citizens to proceed
10 with the Groundwater Savings Plan.

RESPECTFULLY SUBMITTED, this 14th day of June, 2002,



Walter W. Meek, President

Certificate of Service

11 Original and ten (10) copies of the
12 above Response were filed this
13 14th Day of June, 2002, with:

14
15 Docket Control
16 Arizona Corporation Commission
17 1200 W. Washington Street
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19
20 Copies of the above Response
21 were hand-delivered this 14th Day
22 of June, 2002, to:

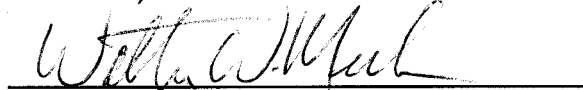
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2 were mailed this 14th Day of June,
3 2002, to the following parties of record:
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